



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/777,306	02/05/2001	Martin L. Hess	3801P001C3	3917

7590 10/21/2004

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP  
Seventh Floor  
12400 Wilshire Boulevard  
Los Angeles, CA 90025-1026

EXAMINER
----------

VU, VIET DUY

ART UNIT	PAPER NUMBER
----------	--------------

2154

DATE MAILED: 10/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/777,306

**Applicant(s)**

HESS ET AL.

**Examiner**

Viet Vu

**Art Unit**

2154

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 19-28, 41-45 and 59-82 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 19-22, 62-66, 77 and 81 is/are allowed.
- 6) ☒ Claim(s) 23-28, 41-45, 59-61, 67-76, 78-80 and 82 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

**Non-Art Rejections:**

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 26-28, 67-76, 79 and 82 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The following language lacks proper antecedent basis:

In claim 26, line 5, "the first image".

In claim 26, line 11, "the second image".

In claim 67, line 7, "the first image".

In claim 67, line 13, "the second image".

**Art Rejection:**

3. The text of 35 USC 103(a) not cited here can be found in the previous office action.

4. Claims 23-28, 41-45, 59-61, 67-76, 78-80 and 82 are rejected under 35 U.S.C. §103(a) as being unpatentable over

Kernz, U.S. pat. No. 6,366,899, in view of Woolston, U.S. pat. No. 5,845,265.

Per claims 23-24, Kernz discloses an electronic auction system and method for facilitating person-to-person commerce comprising:

- a) storing at a listing site a plurality of thumbnail images including at least first and second thumbnail images associated with items for sale (see Kernz's col 9, lines 39-45), the thumbnail images being seller-specified images that are stored at the local site (Kernz's col 7, lines 45-49) or at a remote site (see Kernz's col 13, lines 35-48),
- b) combining the first and second thumbnail images onto a web page for presentation at a remote site in response to a user query (see Kernz's col 9, lines 36-43 and col 12, lines 1-55).

Kernz does not explicitly show the step of retrieving or posting seller-specified item descriptions and images from a remote site to the listing site. Woolston discloses a prior art electronic auction system comprising a listing server for enabling the user to register and post user-supplied data including image and item description from a remote site (see Woolston's col 14, line 51 - col 15, line 42).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Kernz with

Art Unit: 2154

Woolston's teachings because it would have allowed user to register and post auction items with the listing server.

Kernz does not teach specific steps of creating thumbnail images from the standard images. An official notice is taken that such thumbnail image generation method is well known in the art. It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize any conventional technique to generate thumbnail images from standard images because it would have enabled practicing Kernz's invention (see Kernz's col 9, lines 42-43).

Per claim 25, Woolston teaches providing users information related to item including title/identifier (see Woolston's col 16, lines 27-33).

Claims 26-28, 41-45, 59-61, 67-76, 78-80 and 82 are similar in scope than that of claims 23-25 and hence are rejected for the same rationale set forth for claims 23-25.

**Allowable Subject Matter:**

5. Claims 19-22, 62-66, 77 and 81 are allowed over prior art of record.

Art Unit: 2154

**Response to Amendment:**

6. Applicant's arguments filed on 9/27/04 with respect to claims 23-28, 41-45, 59-61, 67-76, 78-80 and 82 have been fully considered but they are moot in view of new ground of rejection set forth above.

**Conclusion:**

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Viet Vu whose telephone number is (703) 305-9597. The examiner can normally be reached on Monday through Friday from 7:00am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee, can be reached on (703) 305-8498.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-9600.



VIET D. VU  
PRIMARY EXAMINER

Art Unit 2154  
10/18/04